

ADA  
PROPOSED TRAINING MODULES

I. OVERVIEW OF THE LAW

1. General scope/purpose of the law (Titles I-IV)
  - A. History
  - B. Effective dates
  - C. Discrimination prohibited/types of behavior considered to be discriminatory
  - D. Does not preempt any federal, state or local law that grants individuals with disabilities protection greater than or equivalent to that provided by ADA
  - E. Implementation responsibilities
  - F. Grievance procedures, remedies
  - G. Retaliation/coercion
  - H. Enforcement responsibilities
2. Compare to Rehabilitation Act of 1973, state laws, affirmative action, etc.
  - A. Differences
  - B. Change in terminology
  - C. Effect on other laws
3. Who is disabled under ADA?
  - A. What is a disability, a qualified individual with disability
  - B. Physical or mental impairment substantially limiting major life activities
  - C. Definitions included in 1630.2 of regulations
  - D. Exceptions; status of alcohol and drug abusers
4. Sensitivity/awareness issues
5. Reasonable accommodation
  - A. Determining appropriate accommodation  
(new and current employees, see #11 below)
  - B. Undue hardship
  - C. Types of accommodations
    1. Physical/mechanical
    2. Job restructuring
    3. Job sharing
    4. Readers, signers, etc.
    5. Reassignment
6. Prohibition against disability discrimination
  - A. Limiting, segregating or classifying disabled individuals
  - B. Participating in contractual relationships that effectuate discrimination; impact on current collective bargaining agreements
  - C. General standards, criteria and methods of administration that effectuate discrimination
  - D. Relationship or association with an individual with a

disability

7. Permitted activities/unlawful inquiries
  - A. Drug testing; disease testing
  - B. Regulation of smoking in the work place
  - C. Insurance plans
  - D. Progressive discipline
  - E. Performance evaluations
  - F. Pre-employment testing
8. Defenses
9. Overview of application, interviewing and hiring changes
10. Overview of position description changes
11. Overview of strategies for working with current employees who develop disabilities.

## II. APPLICATION/INTERVIEWING/SELECTION PROCESS

(begin with brief overview of legislation)

1. Job applications, hiring practices, advancement, compensation
2. Qualification standards, tests and other selection criteria
3. Advertisement/recruitment for positions
4. Administration of tests
5. Pre-employment inquiries/interviews
6. Employment entrance exams
7. Pre-employment medical (physical and psychological) exams and inquiries; drug/disease testing
8. Other permitted examinations and questions
9. Interview process
  - A. Job descriptions
    1. Essential job functions
  - B. Interview questions
  - C. Determining applicant's qualifications for position
  - D. Standards requiring that employee not be direct threat to health or safety
  - E. Accommodation
10. Selection process
11. Post-employment medical examinations
12. Documentation
13. Enforcement/grievance procedures/remedies/liabilities/defenses
14. Sensitivity/awareness issues

2/26/92

### III. POSITION DESCRIPTIONS

1. Overview of legislation; importance of position descriptions
2. Essential duties
  - A. Definition
  - B. Factors to be considered
    1. does position exist to perform a particular function; what are the duties required
    2. the number of other employees available to perform job function
    3. degree of expertise or skill required to perform function
    4. focus on end result, not on how function is to be performed
    5. Legitimate production standards
3. Non-essential duties
4. Physical and Mental requirements
5. Define "job-related" and "consistent with business necessity"
6. Criteria that tend to screen out qualified disabled persons
7. How to write a position description - format

IV. ~~Current~~ Current workforce  
open, please comment/suggest



yet, the goal of all such training would be to routinize and regularize the training.

A separate workplace issue is training Employee Assistance Program (EAP) personnel and personnel department workers to work with employees with AIDS or HIV positive persons. Since their work will be one-on-one, training to eliminate personal fear and homophobia is necessary. One area stressed by our counterparts in California is grief counseling. As the years go by, University departments and programs will experience AIDS deaths of fellow employees. The California university administrators stressed the immense effect an AIDS death has on fellow personnel. Employees are used to colleagues retiring and then dying. However, the loss of a person who still was active in the workforce, someone they saw everyday and worked with apparently has a significant effect on the morale of an office. EAP at the University of California, Berkeley provides grief counseling for fellow employees.

#### **D. Research Issues**

The Ohio State University is a major research institution. Moreover because of the discovery of the feline leukemia virus here -- a retrovirus -- AIDS research (a retrovirus) seemed a natural. The coming of a major cancer treatment center also links the University to AIDS issues. Cancer treatments cause immune system compromise; cancer patients are susceptible to the same opportunistic diseases as AIDS patients -- the trade-offs are obvious in research and treatment. Also because of University Hospitals' location and reputation for the treatment of difficult and rare illnesses, the hospital is a natural center for AIDS treatment.

Ohio State has received two major grants for AIDS clinical trials and for AIDS education for primary care medical personnel. Both of these grants were major coups. Moreover, in Health Education and in Law, individual professors have published works on AIDS which have received national attention.

Investigation into the status of AIDS research at Ohio State produced a schizophrenic result for this investigator. Complaints surfaced about blocking research, slowness in providing space and equipment promised, and even direct harassment. Doctors and nurses reported receiving nasty words and nasty behavior from fellow professionals because of the work with AIDS. Because of insufficient information, this investigator cannot judge how many complaints about space and equipment and personnel for AIDS research are based in AIDS phobia as opposed to normal bureaucratic research problems.

However, evidence is sufficient that in particular the College of Medicine and the University Hospitals are of two conflicting minds about AIDS research (and treatment). On one



hand is the natural desire for grants of any major research institution. On the other is a belief that the stigma attached to AIDS adversely affects research and marketing and that, therefore, such research should be "low-profiled" and kept at a "reasonable" level. The AIDS issue as a serious negative in hospital promotion, according to at least one study, is unfounded.

The consequences of AIDS avoidance in marketing appear to be that AIDS researchers do not get the praise and public acclaim they deserve. Some current researchers actually are prevented from seeking new money for AIDS research or are not encouraged to continue their work in what may be considered a "controversial" area.

#### V. Recommendations

I recommend that the AIDS education function at The Ohio State University be reconstituted. This time period is auspicious for two reasons: (1) the AIDS Research and Education Committee is moribund and (2) the current Chair is leaving.

I recommend that dedication to AIDS education at Ohio State be re-affirmed at the highest University level (i.e., the president's office) by two simultaneous and congruent acts: (1) the issuance of an all-University AIDS policy and guidelines; and (2) the creation of an AIDS Programming Office.

I suggest that the Policy and Guidelines be rewritten and refined. Simultaneously, a search should be carried out for an AIDS Programming Director. In September, the policy should be announced, promulgated, and distributed concurrent with the beginning of work of the new Programming Office.

Policy and Guidelines. The foundation for this document is already in existence, namely the Questions and Answers already issued. Numerous other major universities have issued policy statements from which we can borrow if necessary. A very small working group taken from the former Committee with input from the president's staff and the Provost's staff could draft this policy quickly and easily. The gist would be no different than the outcomes outlined by the Questions and Answers. The reason for a formal policy is that AIDS work needs institutional recognition; the policy also would serve as the working document and policy authorization for the AIDS Programming Office.

AIDS Programming Office. In the best of all possible worlds, AIDS education should be incorporated as a logical part of larger educational and training efforts. The purpose of the AIDS Programming Office would be to develop appropriate AIDS education for various segments of the University, cause those programs to be inserted into on-going programs wherever possible, or create new programs only if necessary. Once that goal has been

**DRAFT POLICY STATEMENT**  
**EQUAL EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES**

**Policy**

**Walt Bauers has draft paragraph**

**Policy Guidelines-**This policy is designed to apply to employment relationships among faculty, staff, and students.

**A. Definitions**

For purposes of this policy and guidelines, the following definitions apply:

1. "Disability" - a physical or mental impairment that substantially limits one or more of the major life activities of an individual or a record of such an impairment or being regarded as having such an impairment. (ADA §3(2))
2. "Qualified individual with a disability" - an individual with a disability who, with or without reasonable accommodation, can perform essential functions of the employment position that such individual holds or desires. (ADA §101(8))
3. "Essential job functions" - those functions actually performed in the job, the removal of which would fundamentally alter the position.
4. "Reasonable Accommodation" - an affirmative obligation to make individual adjustment to a position or the workplace which allows a disabled employee to perform essential job functions. Such adjustment is required unless it places an undue hardship on the employer or the employment of the individual would pose a threat to safety in the workplace.
5. "Undue Hardship" - any accommodation that would be unduly costly, expensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business (interpretive guidelines).

**B. Regulations**

1. It is a violation of University policy to discriminate in employment against a qualified individual because that person currently has a disability or because the individual had a physiological or mental disorder but no longer has that impairment, or because the individual is regarded as disabled.
2. It is against University policy to discriminate against a qualified individual with a disability in regard to "job application procedures, hiring, advancement or discharge of employees, employee compensation, job training, and other terms and conditions of employment. (ADA §102(a))
3. It is University policy to determine essential job functions based on an individualized inquiry into each position filled.

*qualified individual known to have an association  
or relationship with an individual who has  
a known disability*



4. It is against University policy to use qualification standards or selection criteria which would "screen out or tend to screen out" individuals with disabilities, unless such measures are both "job-related" and necessary to the safe and efficient operation of the business.

5. It is University policy to make reasonable accommodation to permit disabled individuals to enjoy the same employment opportunities, benefits and privileges as other employees unless such accommodation places an undue hardship on the employer or poses a threat to safety.

### C. Responsibilities (To be determined?)

1. Policy coordination and guidance is provided by the Office of Human Resources/Relations and the Office of Disability Services also administers support services to those individuals with disabilities who may have special needs.  
(Who will assist in individual job assessments and make suggestions and feasibility determinations regarding possible accommodations?)

2. Each dean, director, department chairman and/or administrative officer of an operational unit shall cooperate with the Office of HR & R, in the implementation and dissemination of this policy. Such officials shall refer complaints arising under this policy to the Office of AA.

3. It is the obligation of every faculty and staff member of the University in his or her area of responsibility to adhere to this policy.

### D. Grievances

(?)

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app or staff refer*

*OSU Faculty, Staff and/or applicants who believe they have been  
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